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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/775,829

02/09/2004

Brian M. Adams

0005178

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52390 7590 03/05/2007
JAMES P. HANRATH
191 NORTH WACKER DRIVE
SUITE 1800
CHICAGO, IL 60606

EXAMINER

CARTAGENA, MELVIN A

ART UNIT

PAPER NUMBER

3754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/775,829

Applicant(s)

ADAMS ET AL.

Examiner

Melvin A. Cartagena

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-13 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The statutory double patenting rejection is withdrawn in view of the amendment to the independent claims.

Terminal Disclaimer

2. The terminal disclaimer filed on June 19, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 6,571,994 B1 has been reviewed and is accepted. The terminal disclaimer, which would overcome a nonstatutory double patenting rejection, has been recorded.

Claim Rejections - 35 USC § 102

3. Claims 1-3, 6, 8-11, 13, 15-18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,477,743 to Gross et al.

Gross shows a closure as seen in Fig. 5, having a cap 30 including a cap top 54, a cap skirt 52 depending from the cap top, container engagement threads 56, a sleeve 62 extending upwardly from the cap top, a spout 40 rotatably engaging the sleeve and having a spout top 122 with an aperture 130, an outer spout skirt 120 depending from the spout top, an inner spout skirt 160 depending from the spout top, a sealing member 60, a piercing structure 110, a separate stem 70 including a plug 100 for sealing the aperture on the spout, an outer extending spout engaging member 170 cooperating with a helical groove 150 and an engaging and guide member 80 that engages the stem to the cap to permit axial translation of the stem with respect to the cap and the spout.

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In reference to claims 3 and 19:

See column 8, lines 57-67 and column 9, lines 1 and 2.

In reference to claims 6 and 18:

The length of the threads 150 limits the rotation of the cap. See Fig. 5.

In reference to claims 10 and 11:

See Fig. 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,477,743 to Gross et al. in view of US 3,207,375 to Bereziat et al.

Gross shows all claimed features as discussed above except for a removable tamper tab to prevent rotation of the spout. Bereziat shows a closure as seen in Figs. 8 and 9 having a removable stop tab 18 to prevent rotation of the cap 7a. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Gross to include a removable stop tab to ensure inviolability of the bottle seal and content as taught by Bereziat.

With respect to claim 7, the stop limiting the rotation of the spout, presents no novel or unexpected result over the spout stop used in the references. Rotating the cap 360 degrees in lieu of 180 degrees used in the references solves no stated problem and would be an obvious matter

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of design choice within the skill of the art. In re Launder, 42 CCPA 886, 222 F.2d 371, 105 USPQ 446 (1955); Flour City Architectural Metals v. Alpana Aluminum Products, Inc., 454 F.2d 98, 172 USPQ 341 (8th Cir. 1972); National Connector Corp. v. Malco Manufacturing Co., 392 F.2d 766. 157 USPQ 401 (8th Cir.) cert. denied, 393 U.S. 923, 159 USPQ 799 (1968).

Allowable Subject Matter

6. Claims 4, 5 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed November 14, 2006 have been fully considered but they are not persuasive. As stated in the above rejection there are three components in the device of Gross, a cap, a spout and a stem. There is still no requirement in the claim for individually made components as the applicant's suggests in the remarks. The stem in the device of Gross is a separate member that engages the cap by a engaging and guide member 80, as the spout is rotated with respect to the cap the outer extending engaging member 170 slides over the helical groove 150 to convert the rotational motion of the spout in axial motion of the stem with respect to the cap, as claimed.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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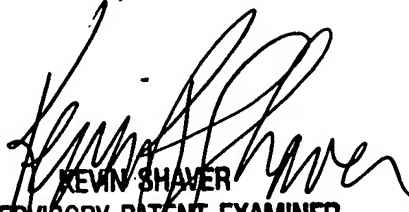
MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on T-F (7:30AM to 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NIAC 2/20/07
MAC


KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700